

Second Circuit Grants Injunctive Relief to Prevent Recurring Sexual Harassment

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The Equal Employment Opportunity Commission (EEOC) brought a lawsuit on behalf of a class of female employees against a grocery store operating in Oswego, New York, alleging sexual harassment and a sexually hostile work environment in violation of Title VII and New York State law. The sole alleged harasser was the store manager, who was alleged to have engaged in verbal and physical harassment. An employee made numerous complaints to management about this alleged harassment, but the store owner allegedly discredited the complaints, likely due to the fact that the store owner and the alleged harasser were in a long term romantic relationship. After a jury trial, the employee was awarded over \$1.25 million in compensatory and punitive damages.

The EEOC sought to amend the judgment to impose broad injunctive relief to ensure no additional harassment occurred and sought an injunction for ten years. The proposed terms were that the employer: 1) could not create or maintain a hostile work environment or retaliate against individuals for engaging in protected activities; 2) could not employ or otherwise compensate the alleged harasser in any way, except for purchasing produce from him; 3) must bar the alleged harasser from entering the grocery store building, 4) must produce and distribute copies of a notice indicating that the alleged harasser was barred from entering the building, along with copies of the photograph; 5) must pay for an independent monitor to continually review its employment practices and investigate possible instances of sexual harassment; 6) must amend its nondiscrimination policy and complaint procedure in a variety of ways, and prominently post the policy; and 7) must conduct an annual training session on sexual harassment for its employees. Finally, the injunction called for the EEOC to be able to monitor the employer's compliance with the injunction and that the employer would cooperate in compliance reviews.

The district court denied the EEOC's request for injunctive relief in its entirety, concluding the requested relief was unnecessary and overly burdensome. The EEOC appealed.

The Second Circuit Court of Appeals vacated the district court's post-judgment order and remanded for further proceedings. The Court concluded that, at a minimum, the district court exceeded the scope of its discretion when it would not enter the injunction to keep the alleged harasser off the employer's premises and agreement to not hire him. The Court found these orders were appropriate given the alleged harasser's longstanding

romantic relationship with the store owner, which was the reason the sexual harassment went unchecked in the first place. The Court further opined that without such an order, nothing prevented the store owner from rehiring the alleged harasser, and/or preventing him from returning to the store to visit her. Ultimately, the Court concluded, injunctive relief was necessary to address the “cognizable danger” of the employer engaging in, or allowing recurring violations of Title VII.

For more information visit the [U.S. Court of Appeals website](#).

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